

REMARKS

Claims 1 to 48 and 55 are in the application, with Claims 1 to 3, 6, 9, 10, 15, 17 and 19 being independent. Claims 3, 6, 9, 10, 13, 17, 22, 28, 34 and 55 have been amended to define more clearly what Applicants regard as their invention. Reconsideration and further examination are respectfully requested.

Applicants gratefully acknowledge that Claims 1, 2, 15, 16 19 and 20 have been allowed. These claims have not been amended herein and thus, remain in condition for allowance.

Applicants wish to thank the Examiner for the professional courtesies extended to Applicants' representatives during a personal interview conducted on July 28, 2003.

During the interview, various amendments were discussed, all directed to the notion of sequences with high homology to SEQ ID NO. 1. The Examiner indicated that she would refuse to enter such amendments as they would raise new issues that would require further search and/or consideration. At the conclusion of the interview, the Examiner suggested that Applicants refile this application. Accordingly, Applicants have filed a Request For Continued Prosecution along with a Preliminary Amendment.

Further to the interview, Applicants have amended the claims so that one embodiment of the present invention, as recited by Claim 3, involves an isolated DNA fragment cloned from SEQ ID NO. 1 that has a nucleotide sequence of SEQ ID NO. 1, or a complement of SEQ ID NO. 1, wherein the nucleotide sequence includes deletion, substitution or addition of one or more bases from cloning, and wherein the DNA fragment encodes a protein having a toluene monooxygenase activity.

The specification, on pages 58 to 60, describes the cloning of a nucleotide sequence that is confirmed to be SEQ ID. NO. 1 through sequencing. As the Examiner acknowledged in the interview, variations in a nucleotide sequence are inherent. As known in the art, cloning produces some inherent variance in the clone, resulting in one or more deletions, substitutions, or additions, as indicated on pages 28 and 60. Accordingly, Applicants have amended the claims to indicate explicitly what already is implicit: The notion that the process of cloning results in clones with an inherent variance in sequence structure to the sequence cloned therefrom.

Claims 9, 10, 13, 17 and 55 have been amended to be consistent with the present invention, as recited in Claim 3.

In the April 8, 2003 Final Office Action, Claims 6 to 8, 11 to 14 and 55 were objected to because of an informality in Claim 6. Claim 6 has been amended to address the informality. Accordingly, withdrawal of the objection is respectfully requested.

Claims 3 to 5, 9 to 14, 17, 18, 21 to 48 and 55 were rejected under 35 U.S.C. § 112, first paragraph, and under 35 U.S.C. § 112, second paragraph. These rejections are respectfully traversed.

The Final Office Action indicated that these rejections were made over claims that recite "stringent hybridization conditions". In response, without conceding the correctness of the rejections and solely to expedite prosecution, the claims have been amended to no longer recite "stringent hybridization conditions". In view of the amendments, the rejections on this basis are now moot.

Meanwhile, regarding all other rejections under 35 U.S.C. § 112, second paragraph, the claims have been amended as suggested by the Examiner in the Final Office Action.

Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. § 112, first paragraph, is respectfully requested.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,


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